IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8098 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MAJMUDAR ASSOCIATIONS

Versus

MUNICIPAL CORPORATION

Appearance:

MR SH SANJANWALA for Petitioner

None present for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 31/07/2000

ORAL JUDGEMENT

#. In this special civil application, the petitioner is praying for quashing and setting aside the notice dated 30th May 1989, annexure-C (colly.) to the petition.

#. The respondent-Corporation issued these notices

u/s.268 of the Bombay Provincial Municipal Corporations Act, 1949 to the petitioner on the ground that it started using the property without obtaining the building use permission. It has further been stated that the petitioner, within a period of one month of completion of building, has not made any application in the prescribed form to the Corporation for grant of this certificate. In the notice, the petitioner was further called upon to stop use and get the premises vacated within seven days, failing which, action u/s.238(5) was proposed to be taken to forcibly evict the petitioner and other occupants from the premises. Notice has also been issued to other occupiers.

#. This court, on 16th August, 1994, admitted the matter and interim relief earlier granted has been ordered to be continued. I fail to see any justification in this approach of the petitioner to come directly against the notice to this court. The petitioner should have filed reply to the notice before the Corporation and should have raised all its objections against it and get a decision thereon and if it goes adverse to it, to take approach appropriate redressal forum available.

#. Mr.Sanjanwala, the learned counsel for the petitioner submits that the petitioner, after filing of this petition has already applied to the Corporation for grant of certificate for use of the building. On this application no order has been passed.

#. Nobody is present on behalf of the respondents. It is really shocking that in such a serious matter, the respondents are totally showing scant disregard to the Rule of this Court. Even they have not cared to file reply and further to see that somebody remains present on their behalf to make oral submission. In view of this fact, interest of justice will be met in case this special civil application is disposed of in the terms that the petitioners, if they have already not filed, to file reply to the show cause notice within one month from today and the Commissioner to decide the matter within one month next. While deciding the matter, the Commissioner shall also consider the application filed by petitioner for grant of building use certificate. If such an application is not filed it is open to the petitioner to file such application and if it is filed, it has to be decided accordingly. In case decision in the matter goes against the petitioner, same may not be implemented for a period of fifteen days. Liberty is granted to the petitioner for revival of this special civil application where the order adverse to it in the

matter is passed. Rule stands disposed of accordingly.
No order as to costs.

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(sunil)